

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 13
	:	
David Koch, Jr.	:	No. 23-12331-pmm
Brittany Lynn Hurley-Koch	:	
Debtors	:	
	:	
Scott F. Waterman, Esquire,	:	
Chapter 13 Trustee	:	Adv. No. 23-00069-pmm
Plaintiff	:	
	:	
vs.	:	
	:	
ClearOne Advantage, LLC	:	
Defendant	:	

**PLAINTIFF’S MOTION FOR JUDGMENT BY DEFAULT AGAINST DEFENDANT
CLEARONE ADVANTAGE, LLC**

Plaintiff, Scott F. Waterman, Esquire, Chapter 13 Trustee, hereby files this motion for default judgment against defendant ClearOne Advantage, LLC, in accordance with Rules 7074 and 7055 of the Federal Rules of Bankruptcy Procedure and Rule 55(b)(2) of the Federal Rules of Civil Procedure and avers as follows:

1. On October 25, 2023 Plaintiff filed the instant adversary action seeking to turnover estate property to 11 U.S.C. § 542 and determine that Defendant violated the automatic stay by seizing estate property post petition for a prepetition debt in violation of 11 U.S.C. § 362.
2. The Complaint and Summons in this action were served on Defendant on October 26, 2023; that a Certificate of Service was filed with the court on October 26, 2023. See Certification of Counsel, attached hereto as Exhibit “A.”
3. The Defendant is not an infant, incompetent, nor in the military.

4. The time within which Defendant may answer the Complaint has expired.

5. Defendant has not answered or otherwise moved; and the time for Defendant to answer or otherwise move has not been extended.

6. Plaintiff is entitled to attorney's fees as Defendant violated the automatic stay. 11 U.S.C. §362(k) and Bankruptcy Rule 7074.

7. Plaintiff has incurred \$1,425.00 attorney's fees in prosecuting this matter.

	Description of Legal Work	Hourly Rate	Time	Legal Fee
10/4/23	Draft and send demand letter for return of money seized from Debtor's account	\$375.00	0.5	\$187.50
10/19/23	Telephone Defendant & speak with Norma about returning money – email again turnover letter	\$375.00	0.4	\$150.00
10/25/23	Contact Debtor's Counsel about turnover action and verify funds not received	\$375.00	0.2	\$75.00
10/25/23	Draft and file Turnover Complaint. Serve Defendant	\$375.00	1.8	\$675.00
11/28/23	Prepare Motion for Judgment	\$375.00	.9	\$337.50
				=====
Total Attorney's Fees				\$1,425.00

8. Plaintiff accordingly requests the Court to enter judgment by default against Defendant in the amount of \$1,640.00, representing \$215.00 in actual damages plus \$1,425.00 in attorney's fees pursuant to Federal Rule of Civil Procedure 55 and Bankruptcy Rule 7054. A form of Order is attached.

9. In support of Plaintiff's Request for the Entry of Default Judgment, Plaintiff submits the accompanying Certification.

Respectfully submitted,

Dated: November 29, 2023

/s/ Scott F. Waterman
Standing Chapter 13 Trustee
2901 St. Lawrence Avenue, Suite 100
Reading, PA 19606-0410
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